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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

RAYMOND CASILLAS,

Defendant and Appellant.

B293091

(Los Angeles County
Super. Ct. No. KA116451)

APPEAL from the judgment of the Superior Court of Los Angeles County. Juan C. Dominguez, Judge. Affirmed.

Christopher Love, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Scott A. Taryle and Nancy Lii Ladner, Deputy Attorneys General, for Plaintiff and Respondent.

* * * * *

Defendant and appellant Raymond Casillas was charged by information with one count of second degree robbery (Pen. Code, § 211). The charge arose from an incident in October 2017 in which defendant, and two accomplices (Christopher Ayala and Jesus Medina), robbed a victim at a park in the city of Azusa. Neither of the codefendants is a party to this appeal.

The case proceeded to a jury trial in May 2018. Codefendants Ayala and Medina pled no contest and testified against defendant. The jury found defendant guilty as charged.

At the sentencing hearing, the court suspended imposition of sentence, placed defendant on three years of formal probation and ordered defendant to serve 364 days in county jail with credit for time served.

Defendant's sole contention on appeal is that one of the conditions of his probation is unconstitutionally vague. Specifically, the court ordered defendant to "[o]bey all reasonable orders, rules, and regulations of the probation officer." The court's written minute order states the condition as follows: "[o]bey all rules and regulations of the probation department." Defendant contends the order is "standardless" and fails to give reasonable notice as to what conduct is prohibited and therefore violates his right to due process.

Defendant argues the condition must be modified to read as follows: "obey all reasonable orders, rules, and regulations of the probation department, as posted on the probation department's website, as approved by the court, and as explained to him by his probation officer." Respondent argues in opposition that the condition is sufficiently precise as is but does not oppose a modification of the condition to include language that defendant obey all reasonable orders and rules actually "communicated" to

him by his probation officer. As we explain, we conclude the condition is not constitutionally infirm and requires no modification.

As an initial matter, defendant concedes he did not object to the condition in the trial court on the grounds now urged here. Nevertheless, we will consider defendant's claim of error because it is a facial challenge presenting a pure question of law that may be asserted for the first time on appeal. (*In re Sheena K.* (2007) 40 Cal.4th 875, 888 (*Sheena K.*)) However, we underscore, as did the Supreme Court in *Sheena K.*, that "generally, given a meaningful opportunity, the probationer should object to a perceived facial constitutional flaw at the time a probation condition initially is imposed in order to permit the trial court to consider, and if appropriate in the exercise of its informed judgment, to effect a correction." (*Id.* at p. 889.)

A vagueness challenge is based on the concept of fair warning and notice. "A probation condition 'must be sufficiently precise for the probationer to know what is required of him, and for the court to determine whether the condition has been violated,' if it is to withstand a challenge on the ground of vagueness." (*Sheena K.*, *supra*, 40 Cal.4th at p. 890.) A probation term may not be so vague that probationers of " 'common intelligence must necessarily guess at its meaning and differ as to its application.' " (*People v. Hall* (2017) 2 Cal.5th 494, 500 (*Hall*)).

"In determining whether the condition is sufficiently definite, however, a court is not limited to the condition's text. [Citation.] We must also consider other sources of applicable law [citation], including judicial construction of similar provisions. [Citations.] Thus, *a probation condition should not be*

invalidated as unconstitutionally vague “ ‘if any reasonable and practical construction can be given to its language.’ ” (Hall, *supra*, 2 Cal.5th at pp. 500-501, italics added.)

Defendant argues the condition here is too vague because it requires him to ostensibly be at the whim of whatever rule his probation officer chooses to impose. We disagree. Hall identifies “the implicit condition to obey all laws” as “one of the most common probation conditions.” (Hall, *supra*, 2 Cal.5th at p. 502.) Such conditions are not infirm because they “contemplate that the probationer might need to look beyond the four corners of the probation order to ascertain what conduct is permitted, what is prohibited, and what state of mind must be shown to sustain a violation. The mere fact that [the probationer] is charged with knowledge of all the law that could apply to his situation does not render the condition unconstitutionally vague.” (*Ibid.*)

A probation condition requiring the probationer to “be of good conduct” and “obey all laws” was similarly upheld in *People v. Rhinehart* (2018) 20 Cal.App.5th 1123. “In context, the phrase ‘[b]e of good conduct’ must be interpreted with its conjunctive phrase ‘and obey all laws.’ Applying context and common sense, the good behavior condition simply requires [the defendant] be a law-abiding citizen.” (*Id.* at p. 1129.)

The condition here expressly requires defendant to obey all *reasonable* orders and rules of his probation officer. Moreover, there is “a general presumption that a probation condition violation must be willful.” (*People v. Rhinehart, supra*, 20 Cal.App.5th at p. 1128.) We are not persuaded the condition is constitutionally infirm.

DISPOSITION

The judgment of conviction is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

WILEY, J.